S.B. CIVIL WRIT PETITION NO.2896/1995

Krishi Upaj Mandi Samiti, Taranagar. Vs. Judge, Labour Court & Anr.

DATE OF ORDER :: 22.3.2007

HON'BLE MR. GOVIND MATHUR, J.

Mr. V.K. Mathur, for the petitioner.
Mr. V.N. Kalla, for the respondent/s.

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The validity, propriety and correctness of the award dated 16.11.1994 passed by the labour court, Bikaner is under challenge in this petition for writ on the count that the labour court erred while answering the reference in positive without examining the question of delay in raising the industrial dispute and also the fact that the workman was not in continuous service of the employer as defined under Section 25B of the Industrial Disputes Act, 1947.

Briefly stated, the facts of the case are that the appropriate government under its notification dated 21.12.1992 referred an industrial dispute for its adjudication to labour court, Bikaner in the terms as to whether termination of workman Sh. Purnaram S/o Sh. Maamraj Kadwasara by the Secretary, Krishi Upaj Mandi Samiti, Taranagar, Churu is

justified and proper, if not, then for what relief the workman is entitled?

In the statement of claim the workman came forward with the case that he entered in the services of Krishi Upaj Mandi Samiti, Taranagar on 20.3.1983 and remained in its employment up to 31.3.1984 and thereafter he was retrenched from service illegally.

In reply to the statement of claim the employer urged that appointment to the workman was given to meet certain urgent pending works and he was not in regular appointment. Beside that, he was discontinued from service without completion of continuous service as defined under Section 25B of the Act of 1947. A specific objection was also raised by the employer about the initiation of proceedings under the Industrial Disputes Act, 1947 at a belated stage.

Learned labour court while adjudicating the industrial dispute referred to it recorded evidence and heard both the parties. On basis of the material evidence available on record a specific finding was given that the workman was in

continuous service and before effecting his retrenchment the mandatory condition precedent for a valid retrenchment, as prescribed under Section 25F of the Act of 1947, was not adhered. The labour court also found that the retrenchment of the workman was in violation of the provisions of Section 25F of the Act of 1947. The labour court also considered the question with regard to delay in raising the industrial dispute and on that count while directing the employer to reinstate the workman did not allow wages for the period commencing from 1.4.1984 to 31.12.1991. The labour court by the award impugned by declaring the retrenchment illegal ordered for reinstatement of the workman with wages w.e.f. 1.1.1992.

I find no illegality that may warrant interference with the award impugned as the same is based on sound appreciation of evidence and by considering all the contentions raised by the parties. Beside that a significant factor required to be taken into consideration is that the petitioner has already reinstated the workman in service and by an order dated 21.1.1997 also regularised his service.

In view of whatever discussed above, I am not inclined to

interfere with the matter. The writ petition, therefore, is dismissed.

(GOVIND MATHUR),J.

J.Goyal